

Navy Region III REC Update July, 2001 COMNAVREG MIDLANT Norfolk



The REC Update presents monthly highlights of environmental news and activities relevant to DOD environmental management in Region III. New legislation, emerging state regulations, program developments, outcomes of litigation, and announcements of conferences and training events will be covered. To submit information for inclusion in the REC Update, contact Lisa Billow, 757-444-3009, ext. 371, e-mail billowl@pwcnorva.navy.mil. The REC Update is posted on DENIX. It is in News and Publications, listed under the NAVY heading of Proprietary Publications on the DOD page. The URL is <http://www.denix.osd.mil/denix/DOD/News/Navy/REC/rec-update.html>. You will need a DENIX account to access this page. To obtain a DENIX account, go to the DENIX Home Page at <http://www.denix.osd.mil>.

To subscribe to the newsletter, through Microsoft ListBot service go to Region III REC Update subscription page at <http://recupdate.listbot.com/cgi-bin/subscriber>.

What is the DOD Regional Environmental Coordinator?

DODINST 4715.2 defines the role of the DOD Regional Environmental Coordinator (REC) and defines its responsibilities. The RECs are to:

- monitor and coordinate consistent interpretation and application of DOD environmental policies within its region.
- monitor Federal, state, and local environmental issues, legislative, regulatory, and enforcement issues
- coordinate with the component RECs to articulate DOD positions on proposed regional, state and local issues.

Some examples of situations possibly needing REC involvement: first time permits, negotiating new permit requirements, new environmental legislation/regulations, developing state/regional emission budgets, etc. Our readers can assist the REC in its mission, by contacting us at 757-444-3009 ext. 369 when issues arise at your facility that may potentially impact more than just your facility.

FEDERAL LEGISLATIVE AND REGULATORY NEWS

EPA Region III Unannounced Exercise Program

EPA's unannounced exercise program, conducted under OPA 90, exercises a facility's ability to implement the procedures in the Facility Response Plan (FRP) and evaluates the facility's ability to initiate an immediate and effective response, including equipment deployment.

The exercises use the FRP's small volume discharge (<2100 gallons) and typically do not include activation of any portion of the FRP which would incur additional costs for the facility. The exercises do not exceed four hours. EPA will also review the facility's drill/exercise records, and inspection and testing records. Facilities selected for the exercises will receive a verbal and written evaluation of the event, and recommendations for improvement. The exercise will meet the facility's OPA requirements for those events tested (notifications, semi-annual equipment deployment, etc.).

Region III sends out advance notice to potential targeted facilities in the region, to encourage them to review their programs, and update their plans and records. All facilities should be aware that the penalty for failure to notify EPA of changes to a facility, and failure to amend a Facility Response Plan, as required, carry a potential penalty of up to \$27,500 per violation, per day.

U.S Military Sovereign Immunity Under Attack

Bills recently introduced in Congress aim to waive DOD's sovereign immunity. Rep. Diana DeGette (D-CO) in late May introduced a bill that would completely waive federal agencies' sovereign immunity from Superfund law, ensuring "full Federal compliance" with the act. DeGette, when developing similar legislation two years ago, said the Superfund law doesn't adequately waive the federal government's sovereign immunity with regard to liability enforcement.

DeGette's bill, the Federal Facility Superfund Compliance Act of 2001, would in several ways amend the Comprehensive Environmental Response, Compensation & Liability Act, otherwise known as Superfund. The bill defines the substantive and procedural requirements that would now be applicable to federal agencies such as DOD. These include "all administrative orders and all civil and administrative penalties and fines, regardless of whether such penalties and fines are punitive or coercive in nature or are imposed for isolated, intermittent, or continuing violations," the bill says. For more information see: Defense Environment Alert, June 5 <https://128.174.5.51/denix/DOD/News/Pubs/DEA/05Jun01/05.doc.html>

In another effort, communities across the country have helped draft a bill that would fully waive the Defense Department's sovereign immunity and remove exemptions from federal and state environmental laws, requiring the same compliance as private parties. Rep. Bob Filner (D-CA) introduced the bill, H.R. 2154, June 13. The bill, however, would retain exemptions allowing the military to override environmental requirements in times of emergency or war.

Under the legislation, both substantive and procedural requirements in federal and analogous state environmental laws would apply to DOD and the Energy Department "in the same manner and to the same extent as any person subject to those requirements," the bill says. And "the United States hereby expressly waives any immunity, and revokes any exemption, otherwise applicable to a Federal defense agency with respect to any such substantive or procedural requirement," it says. The bill also specifically subjects weapon system development and procurement to compliance with the National Environmental Policy Act.

For more information see: Defense Environment Alert June 19

<https://128.174.5.51/denix/DOD/News/Pubs/DEA/19Jun01/02.doc.html> The bill is available on, InsideEPA.com.

EPA Will Not Require Water Discharge Permits For Pesticide Users

EPA enforcement officials have decided they will not take action against herbicide and pesticide users despite a recent federal appeals court ruling that requires the sprayers to obtain Clean Water Act discharge permits. At issue is a March 12 ruling by the U.S. Court of Appeals for the Ninth Circuit, *Headwaters, Inc. v. Talent Irrigation District*, requiring that sprayers obtain a national pollutant discharge elimination system (NPDES) permit under the Clean Water Act before applying a common weed-control chemical to irrigation waterways. The timing of the decision is critical as sprayers prepare for pest control and crop irrigation measures for this summer. But EPA's move falls short of protecting chemical users from third party lawsuits, which has been an issue that EPA has grappled with for weeks.

The complete news release is available at Inside EPA Weekly Report, June 1

<https://128.174.5.51/denix/DOD/News/Pubs/EPA/01Jun01/11.doc.html>

STATE NEWS

Maryland hazardous waste program, Final Rule - June 1, Federal Register

Immediate final rule of the EPA amends regulations under 40 CFR 271 to grant final authorization to the RCRA hazardous waste program revisions submitted by the state of Maryland. The rule is effective July 31, 2001, if no

adverse comments are received by July 3, 2001. Contact: Carol Johnson; EPA Region III, State Programs Branch; (215-814-3378)

Virginia SIP Final Rule - May 31, Federal Register

Direct final rule of the EPA amends regulations under 40 CFR 52.2420(c) to approve revisions to the Virginia SIP regarding existing stationary sources. The revisions clarify the applicability of state provisions covering fuel-burning equipment and specify that permits may be needed for the operation of a facility. The revisions also add definitions and make minor changes. The rule is effective July 30, 2001, if no adverse comments are received by July 2, 2001. Contact: Ruth Knapp; EPA Region III; (215-814-2191)

Delaware/accidental release prevention program - Final Rule - June 8, Federal Register

Direct final rule of the EPA amends regulations under 40 CFR 63.14 and 63.99 to approve the Delaware Department of Natural Resources and Environmental Control's request to implement and enforce the state's accidental release prevention program in place of similar federal requirements under 40 CFR 68. The rule is effective Aug. 7, 2001, if no adverse comments are received by July 9, 2001. Contact: Dianne Walker; EPA Region III; (215-814-3297)

Pennsylvania SIP - Proposed Rule - June 25, Federal Register

Proposed rule of the EPA would amend regulations under 40 CFR 52.2020 to approve revisions to the Pennsylvania SIP. The revisions would set forth new volatile organic compound regulations for the aerospace industry, add definitions, and modify the approval process for the use of alternative compliance methods for certain VOC control requirements. A direct final rule adopting the revisions has been issued concurrently. Comments are due July 25, 2001. Contact: Janice Lewis; EPA Region III; (215-814-2185)

Court Cases

Federal Appeals Court Strikes Most Virginia Restrictions on Trash Imports

Provisions of Virginia's solid waste management law, enacted to limit the amount of out-of-state waste that can be taken to landfills in the state, violate the U.S. Constitution, a federal appeals court ruled. The U.S. Court of Appeals for the Fourth Circuit says four of five provisions, enacted in 1999 in response to the growth of regional landfills in the state and an influx of municipal solid waste from New York and elsewhere, violate constitutional restrictions on state action. For more information got to: Daily Environment Report for 6/7/01

<https://128.174.5.51/denix/DOD/News/Pubs/DER/07Jun01/21.doc.html>

Pennsylvania Machine Company, Ex-Manager Sentenced for CWA Violations

The former general manager of KAM Industries Inc. is sentenced in federal court to 10 months of home confinement and fined \$5,000 for criminal violations of the Clean Water Act. The manager and KAM Industries pleaded guilty to one count of making false statements to EPA and an EPA-designated pretreatment agency in its 1998 application for a waste-water discharge permit and two counts of violating pretreatment standards. KAM Industries is fined \$76,000 and placed on five years of probation. For more information go to:
<https://128.174.5.51/denix/DOD/News/Pubs/DER/11Jun01/30.doc.html>

Shopping Cart Maker to Pay \$500,000 Fine for Clean Water Violations

One of the largest U.S. manufacturers of shopping carts pleads guilty to criminal violations of the Clean Water Act and is sentenced to pay \$500,000 in fines. Rehrig International Inc. acknowledges it failed to supervise an employee who tampered with a device that monitored the discharge of chromium and nickel into the Richmond, Va., sewage treatment system. For complete news release see Daily Environment Report for June 22 at:
<https://128.174.5.51/denix/DOD/News/Pubs/DER/22Jun01/27.doc.html>

Program Notes

Legacy Program Funds DOD Cats Indoors! Brochure

Through the Legacy Program, the Department of Defense has contracted with American Bird Conservancy (ABC) to produce a brochure for cat owners on military installations. The brochure will review free-roaming cat issues and the many good reasons to keep cats indoors. ABC will also produce a more detailed background paper for the installation's Public Affairs Officers, and a Web page with the brochure and background paper in a downloadable format. The brochure will be distributed to all of the armed services in the U.S. and abroad.

"Managed" Cat Colonies in Parks Harmful to Birds and Other Wildlife

The non-profit conservation group, American Bird Conservancy (ABC), has long opposed so-called "managed" colonies of stray and feral cats, claiming that such colonies cannot be effectively controlled and that these cats, no matter how well fed, are still responsible for the deaths of thousands of native songbirds and other animals. Now, a new scientific study backs up ABC's claim that the efforts of stray cat feeders are misguided and damaging to wildlife.

The study by Dan Castillo at the Department of Environmental Studies at Florida International University, contradicts widely held beliefs by cat colony proponents that well-fed cats do not kill wildlife, that cats are territorial and will prevent more cats from joining the colony, and that cat colonies decline in size over time.

Two cat colonies in Miami-Dade County parks were observed for 13 months and, contrary to previous assumptions, it was found that almost every month new cats joined the colonies while other cats disappeared. The colonies acted as dumping grounds for people abandoning cats, despite state and county laws making this illegal. Despite attempts by volunteers to have the cats spayed or neutered, intact cats were observed, as were pregnant cats and newborn kittens.

Although well-fed, cats at both locations were observed chasing, stalking and killing birds and other animals. Aggressive interactions among the cats were few and did not limit cat access to food or the colonies. Cat feeders placed large amounts of food throughout the parks which then attracted other animals such as raccoons, fox, skunks and stray dogs. According to Mr. Castillo, "Managed cat colonies are not the solution to cat overpopulation problems. My findings demonstrate that the establishment of cat colonies on public lands encourages cat abandonment and is harmful to native wildlife. Cat colonies do not decline over time - they just perpetuate themselves."

Linda Winter, director of Cats Indoors! for ABC stated, "Mr. Castillo's study confirms what other studies have shown - that cat colonies cannot be managed ... Solutions to the stray cat overpopulation problem must also protect birds and other wildlife."

ABC's Cats Indoors! Campaign is supported by thousands of individuals and organizations in the conservation, animal welfare, wildlife rehabilitation, and veterinary communities. For more information, visit ABC's Web site at: www.abcbirds.org

CONFERENCES/MEETINGS

Call for Papers/Exhibits/Poster Session for 2001 Navy/Marine Corps Water Program Managers' Conference

December 11-13, Wyndham San Diego at Emerald Plaza Hotel, 400 West Broadway, San Diego, CA. The conference will include all aspects of the Clean Water Act, Oil and Hazardous Substance Spill Prevention and Response Management Program and the Safe Drinking Water Act. Of particular interest to the conference planners are topics on industrial and naval experiences with respect to water quality management and control, pollution prevention, regulations, program management, operations, inspection and maintenance of pollution sources, monitoring/control equipment, pollution planning and response. Also "Good News Stories," "Lessons Learned," and "How-To" subjects are requested. For more information visit <http://web.dandp.com/water/>.

EPA Compliance Workshop: Guidance for Hospitals, July 18 10:00 a.m. - 3:00 p.m. Hospital Council's Education Conference Center in Warrendale, PA. The workshop is intended to provide a basic understanding of key environmental regulations and their application to hospitals. For information call Dee Morgillo of the Hospital Council's Education Center at 800-837-5800 ext. 328. For registration call 800-837-5800 ext. 262. This program is available through interactive video-conferencing technology. Call 800-837-5800 ext. 270 for details.

6th Annual Joint Services Pollution Prevention & Hazardous Waste Management Conference and Exhibition, August 14-16, San Antonio, Texas. The conference provides a forum for technical interchange of information on new technologies, processes, success stories, and tools. Sponsored by the Department of Defense and hosted by the United States Army in 2001, the conference brings together environmental professionals from the military services, the federal government, and private industry to share ideas, information and strategies to promote leadership through partnerships. Visit the event web site: <http://www.p2-hwmconference.com/>

Remediation Innovative Technology Seminar, October 2, Hilton Norfolk Airport, Norfolk VA; October 16 Renaissance Hotel Philadelphia Airport, Philadelphia PA; Oct. 18, Marriott Key Bridge, Arlington VA. Topics for this offering of the semi-annual Remediation Innovative Technology Seminar are: five-year reviews, management of secondary treatment trains, perchlorate, and knowledge exchange - source removal technologies. Register online at <http://erb.nfesc.navy.mil/support/rits/main.htm>

11th Annual DOD Recycling Workshop, October 15, Baltimore Convention Center, Baltimore Maryland. 11th Annual DOD Recycling Workshop will be held in conjunction with SWANA WASTECON '01. The schedule includes a plenary session, breakout sessions, individual service meetings, and new this year--free training opportunities. For comprehensive information and to download a registration form, visit <http://www.afcee.brooks.af.mil/dodrecyclingworkshop> nancy.carper@hqafcee.brooks.af.mil DSN 240-4964

Energy & Environmental Technologies Conference, October 16 -17, Atlantic City Convention Center, One Ocean Way, Atlantic City, NJ. EETC is dedicated to bringing industry and government agencies together to deploy the most innovative solutions available in the market today - the EETC will deliver the most comprehensive forum for awareness of future energy and environmental policy and its impact on technology. Contact: : 609-499-3600, F: 609-499-3647, E: info@eetech.org

NDIA Technical Symposium: Industrial Ecology in Support of the Transformation Environmental, Energy and Corrosion Topics , October 30-31, Morristown, NJ The Picatinny Chapter of the NDIA is sponsoring the 11th Environmental Symposium. The theme of the symposium is "Industrial Ecology in Support of the Transformation Environmental, Energy and Corrosion Topics " and will highlight major DOD, DOE, EPA and industry programs and initiatives supporting life cycle weapons systems environmental issues. The symposium will highlight topics

impacting weapons systems modernization, re-capitalization and maintenance, business practices, corrosion protection, environmental technology, and life cycle assessment. The symposium will be of interest to government, industry and academia who are involved in either new weapons systems and product development, environmental technology demonstrations, environmental management and pollution prevention. For information check our website: <http://www.pica.army.mil/iec> Contact Donna Whittam, 973-724-4666

CONFERENCE INFO ON DENIX **DENIX has a web page dedicated to conference information:**
<http://www.denix.osd.mil/denix/DOD/Calendar/display.cgi?5/1999>

TRAINING

Coastal Science for Lawyers and Decision-makers, August 16, William & Mary Washington DC Office, Carnegie Endowment for International Peace Build